

Agenda Date: August 11, 2011  
Item Number: A1

**Docket:** UE-111418  
**Company:** Pacific Power and Light

**Staff:** David Nightingale, Sr. Regulatory Engineering Specialist

### **Recommendation**

Grant an exception to WAC 480-107-015 allowing a waiver of the Request for Proposal (RFP) solicitation requirements.

### **Background**

On August 3, 2011, Pacific Power and Light (PacifiCorp or Company) filed a petition to waive requirements related to RFPs contained in WAC 480-107-015<sup>1</sup>. The RFP requirement is triggered when a Company's IRP shows a capacity need within three years. The Company's IRP submitted timely on March 31, 2011 showed capacity needs within three years consisting of small amounts of power from combined heat and power (CHP), demand-side resources, irrigation curtailment, and other small acquisitions, as well as larger acquisitions through their "front office transactions." The Company has petitioned to use a combination of existing tariffs and simpler RFP processes than called for in the rule to fulfill its obligations to serve their customers capacity needs in the next three years.

### **Discussion**

#### **RFP Requirements**

When an electric Investor-Owned Utility determines through the development of their Integrated Resource Plan (IRP) that they have a capacity need within three years, "A utility must submit to the commission a proposed request for proposals and accompanying documentation no later than one hundred thirty-five days after the utility's integrated resource plan is due to be filed with the commission."<sup>2</sup> The rule does not provide any threshold for the capacity type or size resource for which this request for proposal requirement can be avoided. Consequently, if there is a capacity need shown within three years the rule requires the filing of a proposed RFP or the Company must petition for an exception to the rule.

The 2011 PacifiCorp IRP shows capacity needs in the West Control Area (which includes Oregon, Washington, and California customers) of the following types:

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<sup>1</sup> UE-111418, Petition for Waiver, paragraph 16.

<sup>2</sup> WAC 480-107-015(3)(b).

IRP Preferred Portfolio Capacity Resources <sup>3</sup>	Capacity (MW nameplate)			
	2011	2112	2113	2114
Jim Bridger, Turbine Upgrades	0	0	3.7	0
Biomass, Combined Heat and Power (CHP)	4.2	4.2	4.2	4.2
Irrigation Pump Energy Curtailment (DSM class 1)	0	0	2	0
Energy Conservation Program (DSM class 2)	7	8	8	8
Solar Water Heating, distributed	1.81	1.81	1.81	1.81
Front Office Transactions (FOTs)	150	550	550	550
<b>Totals</b>	<b>163.01</b>	<b>564.01</b>	<b>569.71</b>	<b>564.01</b>

The capacity resources needed are fairly small in size except for the Front Office Transactions. The Company proposes the following mechanisms to acquire the capacity resources described:

- 1) The Jim Bridger upgrades are proposed to be secured in a “procure and construct” bid process for that specific facility, a project-specific design-build RFP process;
- 2) The biomass capacity will be acquired using existing tariff Schedule 37;
- 3) Class 1 DSM, the Irrigation pump curtailments are under consideration and are proposed to be acquired using request for information and project specific RFPs;
- 4) Class 2 DSM, are the existing residential, commercial and industrial energy conservation programs, to be acquired using existing tariff Schedules 107, 113, 114, 115, 118 and 125;
- 5) The solar heating program is still under consideration and would be placed either under a net-metering or energy efficiency tariff;
- 6) Front Office Transactions (FOTs) will procure capacity from three different hubs: California Oregon Border; Mid-Columbia; and Southern Oregon/Northern California.

PacifiCorp’s IRP describes the nature of the FOTs as follows.

“Front office transactions are proxy resources, assumed to be firm, that represent procurement activity made on an annual forward basis to help the Company cover short positions. As proxy resources, front office transactions represent a range of purchase transaction types. They are usually standard products, such as heavy load hour (HLH), light load hour (LLH), and/or daily HLH call options (the right to buy or call energy at a strike price) and typically rely on standard enabling agreements as a contracting vehicle. Front office transaction prices are determined at the time of the transaction, usually via a third party broker and based on the view of each respective party regarding the then-current forward market price for power. An optimal mix of these purchases would include a range in terms for these transactions. Solicitations for front office transactions can be made years, quarters or months in advance. Annual transactions can be

<sup>3</sup> PacifiCorp 2011 IRP, Volume I, excerpted from Table 8.16, p. 230, March 31, 2011 at:

[http://www.pacificorp.com/content/dam/pacificorp/doc/Energy\\_Sources/Integrated\\_Resource\\_Plan/2011IRP/2011IRP-MainDocFinal\\_Vol1-FINAL.pdf](http://www.pacificorp.com/content/dam/pacificorp/doc/Energy_Sources/Integrated_Resource_Plan/2011IRP/2011IRP-MainDocFinal_Vol1-FINAL.pdf)

available up to as much as three or more years in advance. Seasonal transactions are typically delivered during quarters and can be available from one to three years or more in advance. The terms, points of delivery, and products will all vary by individual market point. Two front office transaction types were included for portfolio analysis: an annual flat product, and a HLH third quarter product. An annual flat product reflects energy provided to PacifiCorp at a constant delivery rate over all the hours of a year. Third-quarter HLH transactions represent purchases received 16 hours per day, six days per week from July through September. Because these are firm products the counterparties back the full purchase. For example, a 100 MW front office purchase requires the seller to deliver 100 MW to PacifiCorp regardless of circumstance. Thus, to insure delivery, the seller must hold whatever level of reserves as warranted by its system to insure firmness. For this reason, PacifiCorp does not need to hold additional reserves on its 100 MW firm front office purchase.”<sup>4</sup>

### **Analysis of Mechanisms for Acquiring Capacity Resources**

For small capacity acquisitions, it often makes sense to rely on existing or proposed tariffs which will undergo commission and stakeholder review. For larger acquisitions or acquisitions that involve RFPs, there is less oversight and companies need to act prudently in their acquisitions. While the acquisition approach proposed by the Company to procure capacity outside of tariffs are rational and normal mechanisms, the Company needs to show that there is a public interest rationale to justify a process outside of the RFP rules contained in WAC 480-107.

The Company issues many RFPs over the years for many types of resources and services. The Company’s rationale in requesting its waiver from WAC 480-107-015 is that the acquisitions specified in its IRP do not require a complex bidding process and can be acquired through alternative procedures that ensure that Pacificorp will meet its public service obligations. Moreover, the Company indicates that alternative procedures such as reliance on planned capital expenditures, utilization of existing tariffs and market-based transactions the Company will avoid over-procurement, non-competitive pricing, or lost opportunities thereby minimizing procurements risks.<sup>5</sup>

While waiving WAC 480-107-015 will reduce the Company’s burden in procuring resources there are also potential risks associated with not going to the market in a more formal RFP manner as described in the rule. The requirements contained in WAC 480-107 for RFPs embody standard practices of an open and fair procurement process that has classically been used in acquiring large resources optimally resulting in least-cost acquisition. Using abbreviate processes or “mini RFPs” as described by the Company in their petition may be appropriate for smaller and less complex transactions, however, a similar abbreviated process might not be justified in the procurement of larger amounts of capacity.

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<sup>4</sup> PacifiCorp 2011 IRP, Volume I, p. 150, March 31, 2011.

<sup>5</sup> UE-111418, Petition for Waiver, paragraph 4.

FOTs are different from typical large capital projects in that they are often used to satisfy energy needs. The nature of FOTs are to acquire short-term resources on very short notice between contracting parties where the terms are completed “at the time of the transaction” as described in the IRP quote above. These contracts are not well tailored for the classic RFP structure required in the RFP rule. The FOTs cannot by their nature allow for longer term evaluation of alternatives and a prolonged deliberation. FOTs are analogous to an auction for contracts for future delivery of energy products, thus are consumated very quickly with a minimum of process.

The Jim Bridger turbine upgrade project is a routine engineering project where the amount of capacity is not large and is part of an ongoing capital investemet plan. Nonetheless, it would be useful for UTC staff to provide an informal review of this RFP prior to it being issued. The acquisition plans for other resources, with the exception of FOTs are also of relatively small size. Therefore, for these smaller acquisition efforts an abbreviated RFP, as proposed is reasonable.

### **Conclusion**

Use of existing and proposed tariff for the procurement of the capacity resources indentified in the 2011 IRP is a reasonable approach for acquisition of small resources and there is commision and stakeholder review built into the tariff modification and approval process. Therefore for the smaller acquisitions proposed, Staff recommends that the requested waiver from WAC 480-107-015 be granted.

The turbine upgrade to the Jim Bridger plant is not as complex as the creation or procurement of a new major capacity resource, such as a new plant. However, it is still a significant investment which should have some level of UTC staff review.

While the magnitude of the FOTs proposed in the IRP are substantial and gives reason to pause, the nature of how FOTs are secured and negotiated is such that Staff recommends that the requested waiver from WAC 480-107-015 also be granted for the propsoed FOT acquisitions. However, the magnitude of FOTs may or may not result in least cost acquisition, due to inherent market risks over time. Therefore, while Staff recommends that a waiver from WAC 480-107-015 be granted for FOTs and other resources, we note that the prudence of all of these acquisitions are not being determined in this proceeding and will be determined in a future rate case.

### **Recommendations**

Grant an exception to WAC 480-107-015 for PacifiCorp allowing the a waiver of RFP solicitation requirements associated with the acquisition of capacity resources identified in the Company’s 2011 IRP.

Require PacifiCorp to provide UTC the proposed RFP for informal review by UTC staff at least 30 days before public issuance.